

FILED

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

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STEPHEN R. LUDWIG, CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA)

v.)

PHIL HAHN AND ASSOCIATES, INC.)

Case No.

3:05CR0118AS

PETITION TO ENTER A GUILTY PLEA

The defendant above-named respectfully represents to the Court as follows:

1. The full name of the corporation is PHIL HAHN AND ASSOCIATES, INC.
2. PHIL HAHN AND ASSOCIATES, INC. is a for-profit entity that was originally incorporated in the State of Indiana on May 1, 1987. Its registered agent is Phillip J. Hahn of Elkhart County, Indiana.
3. The corporation is represented by legal counsel in this criminal matter. Counsel's name is Michael P. Rehak.
4. Phillip J. Hahn has received a copy of the Information and has read and discussed it with other shareholders, officers, and representatives of PHIL HAHN AND ASSOCIATES, INC. The corporation through its shareholders, officers, and representatives believes and feels that it understands every accusation made against the corporation in this case.
5. The corporation understands that it is entitled to have all of its rights which may be involved in this matter explained to it.
6. PHIL HAHN AND ASSOCIATES, INC. understands that it has the right to plead NOT GUILTY to any offense charged against it, and that under a plea of NOT GUILTY the

Constitution guarantees the corporation:

(a) the right to a speedy and public trial by a twelve-person jury, selected according to law, in the Northern District of Indiana which must return a unanimous verdict of GUILTY before the corporation can be convicted;

(b) the right to see, hear and cross-examine all the witnesses against the corporation at its trial;

(c) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses, in its favor at its trial;

(d) the right to the assistance of counsel at every stage of the proceedings, including upon an appeal if need be; and,

(g) that in the event that the corporation should be found GUILTY of the charge against the corporation, the corporation would have the right to appeal its conviction on such charge to a higher court.

7. PHIL HAHN AND ASSOCIATES, INC. understands, also, that if the corporation pleads GUILTY, the corporation waives the right to trial by jury in any and all proceedings in this case and all of the other rights mentioned above.

8. Notwithstanding the above, PHIL HAHN AND ASSOCIATES, INC. has entered into an agreement with the United States Attorney's Office for the Northern District of Indiana as follows:

(a) The corporation agrees to plead guilty to the one-count Information, which charges the corporation with violating federal criminal law in that the corporation engaged in the business of dealing in firearms without having a federal firearms license. The corporation agrees to plead guilty to this charge because the corporation is in fact guilty of this offense. The corporation

understands that the corporation may have a right to be indicted by a Grand Jury; The corporation agrees to waive in open court any right it might have to have this felony charge presented to a Grand Jury. The corporation hereby consents to the filing of this charge by way of an Information;

(b) The corporation admits that all of the following facts are true. PHIL HAHN AND ASSOCIATES, INC. was in the auction business at all times charged in the Information. PHIL HAHN AND ASSOCIATES, INC. uses approximately six auctioneers to conduct more than 100 auctions per year during the period charged. From December 2002 through February 2005, PHIL HAHN AND ASSOCIATES, INC. sold 478 firearms to more than 200 persons in five auctions conducted on December 12, 2002, December 6, 2003, December 16, 2003, March 27, 2004, and February 12, 2005. PHIL HAHN AND ASSOCIATES, INC. sold these firearms through consignment sales to persons without PHIL HAHN AND ASSOCIATES, INC. having applied for or having obtained a federal firearms license. PHIL HAHN AND ASSOCIATES, INC. typically received a payment and fee of \$10 per firearm and 10% of the sale price of the firearm in these consignment sale of firearms. PHIL HAHN AND ASSOCIATES, INC. and its officers were aware that it was required to have a federal firearms license if it engaged in the business of selling firearms beyond the occasional sale or auction of firearms. Phillip J. Hahn in particular attended seminars and continuing education classes during which ATF speakers had indicated that persons engaged in the business of selling firearms (beyond the occasional sale of a firearm) were required to apply for and obtain a federal firearms license. PHIL HAHN AND ASSOCIATES, INC. acknowledges that it was engaged in the business of selling firearms beyond the occasional sale/auction of firearms;

(c) The corporation understand that the maximum penalties for a violation of Title 18, United States Code, Sections 922(a)(1)(A) and 924(a)(1)(D) as charged in Information are: a maximum of five years probation, a \$500,000 fine, or a combination of both probation and a fine, as well as a mandatory special assessment of \$400;

(d) The defendant understands that the offense to which the corporation is pleading guilty falls under the Sentencing Guidelines promulgated by the United States Sentencing Commission under Title 28, United States Code, Section 994. The corporation is aware that its sentence will be determined in accordance with the United States Sentencing Guidelines and this plea agreement. The corporation agrees that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for its offense(s) as set forth in this plea agreement. With that understanding, the defendant expressly waive its right to appeal its conviction, its sentence and any restitution order to any Court on any ground, including any claim of ineffective assistance of counsel. The corporation also agree not to contest its conviction, its sentence, any restitution order imposed, or the manner in which its conviction, the sentence or the restitution order was determined or imposed on any ground including any

alleged ineffective assistance of counsel in any appeal under Title 18, United States Code, Section 3742 or in any post-conviction proceeding, including but not limited to, a proceeding under Title 28, United States Code, Section 2255;

(e) The defendant understands that the Court, based upon input from the corporation and the government as well as an investigation by the United States Probation Office, will determine the guideline range to be applied at its sentencing;

(f) The defendant fully understands that the United States of America has reserved the right to tell the Sentencing Court the good things about it, and the bad things about it, and has reserved the right to fully inform the Court of the nature and extent of the defendant's offense(s);

(g) Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, the United States and the defendant agree to a **binding** sentence of three years probation, a fine of \$40,000, and a special assessment of \$400. The Court, if it accepts this agreement, must impose a sentence of three years probation, a fine of \$40,000, and a special assessment of \$400;

(h) The defendant agrees to pay the \$40,000 fine and \$400 special assessment immediately following the sentencing hearing in this case;

(i) The defendant hereby waives all rights, whether asserted directly or through a representative, to request or receive from the United States any further records, reports, or documents pertaining to the investigation or prosecution of this matter. This waiver includes, but is not limited to, rights conferred by the Freedom of Information Act and the Privacy Act of 1974. Further, the defendant acknowledges that it has received all discovery required by law prior to the entry of this plea;

(j) the defendant hereby agrees to not engage in any consignment sales of any firearms at any time following the entry of this corporate guilty plea. It is further agreed that Phillip J. Hahn and any of his immediate family members who are associated with the defendant company will be permanently prohibited from engaging in consignment sales of firearms. Any other directors, officers, employees, agents, or representatives of the defendant company shall be prohibited while associated with the defendant company or any other corporation in existence or to come into existence in the future which is controlled by Phillip J. Hahn and/or any of his family members mentioned above in this paragraph;

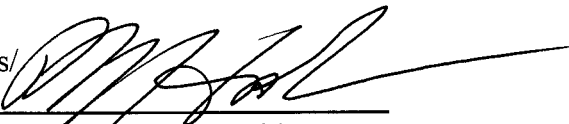
(k) the defendant represents that its President Phillip J. Hahn has been duly authorized by the defendant through its Board of Directors and/or shareholders to enter into this plea agreement and the guilty plea pursuant to the agreement; and

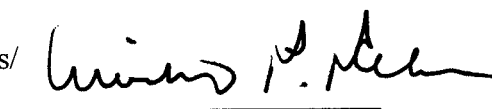
(l) Other than what is contained in this plea agreement, no predictions, promises, or representations have been made to the corporation as to the specific sentence that will be imposed or any other matter.

9. The defendant is prepared to state to the Court its reasons based on the facts in this matter that cause the corporation to believe that the corporation is GUILTY as charged.

10. The defendant declares that the corporation offers its plea of GUILTY freely and voluntarily and of its own accord, and no promises have been made to the corporation other than those contained in this petition, nor has the defendant, its directors, officers, employees, agents, or representatives been threatened in any way by anyone to cause the corporation to plead GUILTY in accordance with this petition.

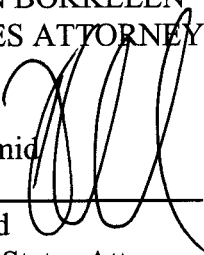
11. The defendant understands and acknowledges that this petition, once filed with the Court, is a public document and available for public viewing.

s/ 
Phillip J. Hahn, President
PHIL HAHN AND ASSOCIATES, INC.
Defendant

s/ 
Michael P. Rehak
Attorney for Defendant

APPROVED:

JOSEPH S. VAN BOKKELEN
UNITED STATES ATTORNEY

By: 
s/ Donald J. Schmid
Donald J. Schmid
Assistant United States Attorney